

HOUSE BILL 1238

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By: **Delegates Costa and Hammen**

Introduced and read first time: February 7, 2014

Assigned to: Health and Government Operations and Appropriations

A BILL ENTITLED

1 AN ACT concerning

2 **Developmental Disabilities Administration – Payment of Providers**

3 FOR the purpose of repealing, effective as of a certain date, certain provisions of law
4 requiring the Developmental Disabilities Administration to develop and
5 implement a certain funding system for the distribution of State funds to
6 certain providers to provide certain community–based services; requiring the
7 Administration to conduct a certain study, develop and implement a certain
8 plan, develop a certain strategy, provide for certain payments, develop a certain
9 billing and payment system, and consult with certain stakeholders; requiring
10 the Administration to adopt certain regulations; requiring the Department of
11 Health and Mental Hygiene to submit a certain report to certain committees of
12 the General Assembly; prohibiting the Department of Health and Mental
13 Hygiene from proposing certain regulations until after a certain comment
14 period; requiring the Secretary of Health and Mental Hygiene to provide certain
15 notice to the Department of Legislative Services within a certain time frame;
16 and generally relating to the Developmental Disabilities Administration and a
17 funding system for providers of community–based services.

18 BY repealing

19 Article – Health – General

20 Section 7–306.1

21 Annotated Code of Maryland

22 (2009 Replacement Volume and 2013 Supplement)

23 BY adding to

24 Article – Health – General

25 Section 7–306.2

26 Annotated Code of Maryland

27 (2009 Replacement Volume and 2013 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
2 MARYLAND, That the Laws of Maryland read as follows:

3 **Article – Health – General**

4 [7–306.1.

5 (a) The Administration shall develop and implement a funding system for
6 the distribution of State funds to private providers that are under contract with the
7 Administration to provide community–based services to individuals with disability in
8 accordance with the State plan.

9 (b) Funds received for services that are fee–for–service or that have rates set
10 by regulation shall be subject to recovery by the Administration only for the following
11 purposes:

12 (1) Client attendance;

13 (2) Client fees; or

14 (3) Sanctions allowed through regulations.

15 (c) (1) Under the funding system developed under subsection (a) of this
16 section, the Administration shall notify each private provider at least 30 days before
17 the beginning of the fiscal year of the billing rate or amount of funds to be paid to the
18 provider for the provision of community–based services to an individual with
19 developmental disability or a group of individuals with developmental disability for
20 the coming fiscal year.

21 (2) For rates that are set in regulation, the Administration shall
22 include the cost centers used to determine the funding amount of each rate.

23 (3) (i) A private provider may request an administrative resolution
24 of a billing rate set under paragraph (1) of this subsection except for rates set in
25 regulation.

26 (ii) Within 60 days after receipt of the provider’s request, the
27 Administration shall make a decision on the request for an administrative resolution.

28 (iii) If an administrative resolution cannot be reached between
29 the provider and the Administration, the provider may request an evidentiary hearing
30 or an oral hearing in accordance with regulations of the Department.

31 (d) Subject to the provisions of subsections (e), (f), and (g) of this section, the
32 Administration shall provide payment to private providers for the services provided
33 from the funds designated in subsection (c) of this section in accordance with the
34 following payment schedule:

1 (1) On or before the third business day of the fiscal quarter beginning
2 July 1, 33% of the total annual amount to be paid to the provider;

3 (2) On or before the third business day of the fiscal quarter beginning
4 October 1, 25% of the total annual amount to be paid to the provider;

5 (3) On or before the third business day of the fiscal quarter beginning
6 January 1, 25% of the total annual amount to be paid to the provider; and

7 (4) On or before the third business day of the fiscal quarter beginning
8 April 1, 17% of the total annual amount to be paid to the provider.

9 (e) The Administration may deviate from the payment schedule provided
10 under subsection (d) of this section for any provider:

11 (1) That is reimbursed through the fee payment system and fails to
12 submit properly completed program attendance reports within 15 days of the
13 beginning of each month;

14 (2) That provides services under the medical assistance program and
15 fails to submit the designated forms used by the medical assistance program to claim
16 federal fund participation within 30 days after the end of each month; or

17 (3) That fails to submit a cost report for rate-based payment systems
18 or wage surveys as required under subsection (k) of this section.

19 (f) A deviation from the payment schedule as provided under subsection (e)
20 of this section may occur only if the Administration has:

21 (1) Advised the provider that:

22 (i) An attendance report which has been submitted on time is
23 in need of correction;

24 (ii) A designated medical assistance form which has been
25 submitted on time is in need of correction;

26 (iii) A cost report for rate-based payment systems has not been
27 submitted within 6 months from the close of the fiscal year or, if submitted, is in need
28 of correction; or

29 (iv) A wage survey requested under subsection (l) of this section
30 has not been submitted by the later of 60 days from the date of receipt of the request
31 or within 60 days after the last day of the pay period for which the data was requested
32 or, if submitted, is in need of correction.

1 (2) Allowed the provider at least 5 working days to submit, resubmit
2 or correct the report or form; and

3 (3) Not in any way contributed to the delay of or error on a report or
4 form.

5 (g) The amount of a reduction of payments to a provider pursuant to
6 subsections (e) and (f) of this section may not:

7 (1) Exceed the amount of lost federal revenue attributable to the delay
8 or error; or

9 (2) In the case of cost reports for rate-based payment systems or wage
10 surveys, exceed \$500 per day per report for each day the report is not submitted past
11 the given due date or corrected.

12 (h) The Administration:

13 (1) Shall place sufficient funds in a specially designated account with
14 the Office of the Comptroller to meet its financial obligations under subsection (d) of
15 this section;

16 (2) Shall disburse funds from the account in accordance with the
17 payment schedule provided in subsection (d) of this section;

18 (3) May not use the funds in the account for any other purpose except
19 for the purpose of reimbursing private providers for the provision of community-based
20 services to individuals with developmental disability;

21 (4) Within 1 year after receipt of a private provider's year-end report
22 and cost report for rate-based payment systems, shall reconcile the report and shall
23 provide the provider with a written approval of the report or a written explanation of
24 any items in dispute; and

25 (5) Shall conduct an audit of each private provider every 4 years.

26 (i) The Administration shall accept as final the private provider's year-end
27 report and cost report for rate-based payment systems if:

28 (1) The Administration fails to provide written approval or a written
29 explanation of any items in dispute within 1 year after receiving the report; or

30 (2) The Administration fails to reconcile the year-end report and cost
31 report for rate-based payment systems within 1 year after receiving the report.

32 (j) If the Administration fails to conduct an audit of a private provider as
33 required in subsection (h)(5) of this section, the Administration may not audit the

1 private provider for any fiscal year that began more than 48 months before the
2 Administration's notification of audit, unless the Administration suspects fraud or
3 misappropriation of funds.

4 (k) Private providers shall provide the year-end report to the Administration
5 no later than 6 months after the end of the State fiscal year.

6 (l) Private providers shall submit to the Administration:

7 (1) Cost reports for rate-based payment systems no later than 6
8 months after the end of the State fiscal year; and

9 (2) Wage surveys by the later of:

10 (i) 60 days after the last day of the pay period for which the
11 data is requested; or

12 (ii) 60 days after receipt of a request from the Administration
13 for wage survey information.]

14 SECTION 2. AND BE IT FURTHER ENACTED, That the laws of Maryland
15 read as follows:

16 **Article – Health – General**

17 **7-306.2.**

18 **(A) THE ADMINISTRATION SHALL:**

19 **(1) CONDUCT AN INDEPENDENT COST-DRIVEN, RATE-SETTING**
20 **STUDY TO SET PROVIDER RATES FOR COMMUNITY-BASED SERVICES THAT**
21 **INCLUDES A RATE ANALYSIS AND AN IMPACT STUDY THAT CONSIDERS THE**
22 **ACTUAL COST OF PROVIDING COMMUNITY-BASED SERVICES, INCLUDING:**

23 **(I) THE COST OF TRANSPORTATION ACROSS ALL SERVICE**
24 **TYPES;**

25 **(II) APPROPRIATE WAGE AND BENEFIT LEVELS FOR DIRECT**
26 **SUPPORT AND SUPERVISORY STAFF; AND**

27 **(III) RATES THAT INCORPORATE THE FISCAL IMPACT OF**
28 **ABSENCE DAYS;**

29 **(2) DEVELOP AND IMPLEMENT A PLAN INCORPORATING THE**
30 **FINDINGS OF THE RATE-SETTING STUDY CONDUCTED UNDER ITEM (1) OF THIS**

1 SUBSECTION, INCLUDING PROJECTED COSTS OF IMPLEMENTATION AND
2 RECOMMENDATIONS TO ADDRESS ANY POTENTIAL SHORTFALL IN FUNDING;

3 (3) DEVELOP A STRATEGY FOR ASSESSING THE NEEDS OF AN
4 INDIVIDUAL RECEIVING SERVICES THAT CONFORMS WITH THE FINDINGS OF
5 THE RATE-SETTING STUDY CONDUCTED UNDER ITEM (1) OF THIS SUBSECTION;

6 (4) PROVIDE FOR ADEQUATE WORKING CAPITAL PAYMENTS TO
7 PROVIDERS;

8 (5) DEVELOP A SOUND FISCAL BILLING AND PAYMENT SYSTEM
9 THAT IS TESTED FOR ADEQUACY AND EFFICIENCY IN PAYMENT OF PROVIDERS;
10 AND

11 (6) CONSULT WITH STAKEHOLDERS, INCLUDING PROVIDERS AND
12 INDIVIDUALS RECEIVING SERVICES, IN CONDUCTING THE RATE-SETTING STUDY
13 AND DEVELOPING THE PAYMENT SYSTEM REQUIRED BY THIS SUBSECTION.

14 (B) THE ADMINISTRATION SHALL ADOPT REGULATIONS TO IMPLEMENT
15 THE PAYMENT SYSTEM REQUIRED BY THIS SECTION.

16 SECTION 3. AND BE IT FURTHER ENACTED, That:

17 (a) Before proposing regulations implementing a payment system as
18 required by § 7-306.2 of the Health – General Article, as enacted by Section 2 of this
19 Act, the Department of Health and Mental Hygiene shall submit a report, in
20 accordance with § 2-1246 of the State Government Article, to the Senate Budget and
21 Taxation Committee, the Senate Finance Committee, the House Appropriations
22 Committee, and the House Health and Government Operations Committee
23 summarizing the new payment system.

24 (b) The committees listed in subsection (a) of this section shall have 60 days
25 to review and comment on the report provided by the Department of Health and
26 Mental Hygiene under subsection (a) of this section.

27 SECTION 4. AND BE IT FURTHER ENACTED, That Section 1 of this Act shall
28 take effect on the effective date of the regulations adopted by the Developmental
29 Disabilities Administration as required by § 7-306.2 of the Health – General Article,
30 as enacted by Section 2 of this Act. The Secretary of Health and Mental Hygiene,
31 within 5 days after the effective date of the regulations, shall provide written notice of
32 the effective date of the regulations to the Department of Legislative Services, 90 State
33 Circle, Annapolis, Maryland 21401.

34 SECTION 5. AND BE IT FURTHER ENACTED, That, except as provided in
35 Section 4 of this Act, this Act shall take effect October 1, 2014.

